

CANON 3--JUDGES SHALL PERFORM THE DUTIES
OF THEIR OFFICE IMPARTIALLY
AND DILIGENTLY

The judicial duties of judges should take precedence over all other activities. Their judicial duties include all the duties of office prescribed by law. In the performance of these duties, the following standards apply:

(A) Adjudicative Responsibilities.

(1) Judges should be faithful to the law and maintain professional competence in it, and comply with the continuing judicial education requirements of GR 26. Judges should be unswayed by partisan interests, public clamor, or fear of criticism.

(2) Judges should maintain order and decorum in proceedings before them.

(3) Judges should be patient, dignified, and courteous to litigants, jurors, witnesses, lawyers, and others with whom judges deal in their official capacity, and should require similar conduct of lawyers, and of the staff, court officials, and others subject to their direction and control.

Comment

The duty to hear all proceedings fairly and with patience is not inconsistent with the duty to dispose promptly of the business of the court. Courts can be efficient and businesslike while being patient and deliberate.

(4) Judges should accord to every person who is legally interested in a proceeding, or that person's lawyer, full right to be heard according to law, and, except as authorized by law, neither initiate nor consider ex parte or other communications concerning a pending or impending proceeding. Judges, however, may obtain the advice of a disinterested expert on the law applicable to a proceeding before them, by amicus curiae only, if they afford the parties reasonable opportunity to respond.

Comment

The proscription against communications concerning a proceeding includes communications from lawyers, law teachers, and other persons who are not participants in the proceeding, except to the limited extent permitted. It does not preclude judges from consulting with other judges, or with court personnel whose function is to aid judges in carrying out their adjudicative responsibilities. An appropriate and often desirable procedure for a court to

obtain the advice of a disinterested expert on legal issues is to invite the expert to file a brief *amicus curiae*.

(5) Judges shall perform judicial duties without bias or prejudice.

Comment

A judge must perform judicial duties impartially and fairly. A judge who manifests bias on any basis in a proceeding impairs the fairness of the proceeding and brings the judiciary into disrepute.

(6) Judges should dispose promptly of the business of the court.

Comment

Prompt disposition of the courts business requires judges to devote adequate time to their duties, to be punctual in attending court and expeditious in determining matters under submission, and to insist that court officials, litigants and their lawyers cooperate with them to that end.

(7) Judges shall not, while a proceeding is pending or impending in any court, make any public comment that might reasonably be expected to affect its outcome or impair its fairness or make any nonpublic comment that might substantially interfere with a fair trial or hearing. The judge shall require similar abstention on the part of court personnel subject to the judge's direction and control. This section does not prohibit judges from making public statements in the course of their official duties or from explaining for public information the procedures of the court. This section does not apply to proceedings in which the judge is a litigant in a personal capacity.

(8) Judges shall not commend or criticize jurors for their verdict other than in a court order or opinion in a proceeding, but may express appreciation to jurors for their service to the judicial system and the community.

Comment

Commending or criticizing jurors for their verdict may imply a judicial expectation in future cases and may impair a juror's ability to be fair and impartial in a subsequent case.

(B) Administrative Responsibilities.

(1) Judges should diligently discharge their administrative responsibilities, maintain professional competence in judicial administration, and facilitate the performance of the administrative responsibilities of other judges and court officials.

(2) Judges should require their staff and court officials subject to their direction and control to observe the standards of fidelity and diligence that apply to them.

(3) Judges should not make unnecessary appointments. They should exercise their power of appointment only on the basis of merit, avoiding nepotism and favoritism. They should not approve compensation of appointees beyond the fair value of services rendered.

Comment

Appointees of the judge include officials such as referees, commissioners, special masters, receivers, guardians and personnel such as clerks, secretaries, and bailiffs. Consent by the parties to an appointment or an award of compensation does not relieve the judge of the obligation prescribed by this subsection.

(C) Disciplinary Responsibilities.

(1) Judges having actual knowledge that another judge has committed a violation of this Code should take appropriate action. Judges having actual knowledge that another judge has committed a violation of this Code that raises a substantial question as to the other judge's fitness for office should take or initiate appropriate corrective action, which may include informing the appropriate authority.

(2) Judges having actual knowledge that a lawyer has committed a violation of the Rules of Professional Conduct should take appropriate action. Judges having actual knowledge that a lawyer has committed a violation of the Rules of Professional Conduct that raises a substantial questions as to the lawyer's fitness as a lawyer should take or initiate appropriate corrective action, which may include informing the appropriate authority.

(D) Disqualification.

(1) Judges should disqualify themselves in a proceeding in which their impartiality might reasonably be questioned, including but not limited to instances in which:

(a) the judge has a personal bias or prejudice concerning a party, or personal knowledge of disputed evidentiary facts concerning the proceeding;

(b) the judge previously served as a lawyer or was a material witness in the matter in controversy, or a lawyer with whom the judge previously practiced law served during such association as a lawyer concerning the matter, or such lawyer has been a material witness concerning it;

(c) the judge knows that, individually or as a fiduciary, the judge or the judge's spouse or member of the judge's family residing in the judge's household, has an economic interest in the subject matter in controversy or in a party to the proceeding, or is an officer, director or trustee of a party or has any other interest that could be substantially affected by the outcome of the proceeding, unless there is a remittal of disqualification;

(d) the judge or the judge's spouse or member of the judge's family residing in the judge's household, or the spouse of such a person:

(i) is a party to the proceeding, or an officer, director, or trustee of a party;

(ii) is acting as a lawyer in the proceeding;

(iii) is to the judge's knowledge likely to be a material witness in the proceeding.

Comment

The fact that a lawyer in a proceeding is affiliated with a law firm with which a lawyer-relative of the judge is affiliated does not of itself disqualify the judge. Under appropriate circumstances, the fact that "their impartiality might reasonably be questioned" under Canon 3(D)(1), or that the lawyer-relative is known by the judge to have an interest in the law firm that could be "substantially affected by the outcome of the proceeding" may require the judge's disqualification.

(2) Judges should inform themselves about their personal and fiduciary economic interests, and make a reasonable effort to inform themselves about the personal economic interests of their spouse and minor children residing in their household.

(E) Remittal of Disqualification.

A judge disqualified by the terms of Canon 3(D)(1)(c) or Canon 3(D)(1)(d) may, instead of withdrawing from the proceeding, disclose on the record the basis of the disqualification. If, based on such disclosure, the parties and lawyers, independently of the judge's participation, all agree in writing or on the record that the judge's relationship is immaterial or that the judge's economic interest is de minimis, the judge is no longer disqualified, and may participate in the proceeding. When a party is not immediately available, the judge may proceed on the assurance of the lawyer that the party's consent will be subsequently given.

[Canon 3 amended effective September 20, 1976; September 1, 1983; Canon 3 and Comments amended effective March 25, 1988; Canon 3 amended effective December 27, 1991; Canon 3 and Comments amended effective June 23, 1995; Canon 3 amended effective July 1, 2002.]
